UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
*National Marine Fisheries Service*
*P.O. Box 21668*
*Juneau, Alaska 99802-1668*

May 13, 2004

Colonel Timothy J. Gallagher
U.S. Army Corps of Engineers
P.O. Box 898
Anchorage, Alaska 99506-0898

Attn: Joy Earp

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the Public Notice of Application for Permit by ConocoPhillips Alaska Inc. to construct 5 new satellites (drill pads) and associated roads in the Colville Delta (CD) and National Petroleum Reserve-Alaska (NPR-A). The project would require placement of approximately 1,988,660 cubic yards of gravel fill material into approximately 294 acres of waters of the United States including wetlands.

The U.S. Army Corps of Engineers (Corps) has determined that the described activity within the proposed area may negatively impact Essential Fish Habitat (EFH), including anadromous fish and federally managed fishery resources. NMFS agrees with this assessment. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires NMFS to make conservation recommendations regarding any federal action that would adversely affect EFH. The adverse effects of the proposed project on EFH can be reduced by incorporating the conservation measures listed below into the permit.

**Background and Discussion**

NMFS is concerned regarding the potential impacts of the project on water resources, fish, marine mammals, and threatened and endangered species. The primary concern for water resources is the impact to rivers and creeks if construction and operation activities associated with roads, pads, and pipelines block, divert, impede or constrict flows. Blockages or diversions to areas with insufficient flow capacity can result in seasonal or permanent impoundments. Constricting flows can result in increased stream velocities and a higher potential for ice jams, ice impacts, scour, and streambank erosion. The fish impacts of greatest concern to NMFS are encroachment of bridge approaches into floodplain terraces and poor culvert design or failure that blocks or interrupts fish movement. Potential impacts to marine mammals include disturbance to seals and beluga whales in the Nigliq Channel as a result of increased air traffic and construction and traffic over the new Nigliq Channel bridge.

The proposed bridges in this permit application appear to encroach significantly on stream floodplains. The Nigliq Channel Bridge encroaches onto the 2 year floodplain. The extent of the

encroachment cannot be determined from the maps provided, but appears to be significant. The Ublutuoch River Bridge also encroaches onto a substantial portion of the 2 year floodplain. The floodplain fill for these 2 bridges will impact both streams by restricting flows and increasing stream velocities. Some floodplain fill may be acceptable, but substantial filling onto the 2 year floodplain is not. Both of these bridges should be much longer to prevent alteration of stream morphology by annual flood events.

Numerous other bridges are proposed. The drawings provided in the permit application do not provide enough information to determine whether the proposed bridge size at each location is adequate. Many culverts and culvert batteries are also proposed. The information provided is inadequate to determine if the culverts are properly sized to maintain existing flow patterns. Two design sheets for culverts are provided. One design is for fish passage and the other is for water without fish passage. All lakes, streams and ephemeral streams along the road have not been sampled for seasonal fish passage or movement. NMFS suggests that all culverts be designed for fish passage to assure all existing fish use is maintained in every drainage crossed by the road.

Impacts to marine mammals and endangered species as a result of this project are probably minimal. The minimal impact can be insured by routing all aircraft flights over land and maintaining a flight elevation of greater than 1000 feet.

**EFH Conservation Recommendations**

NMFS offers the following recommendations pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Act to minimize project impacts.

1. The Nigliq Channel and Ublutuoch River bridges should be made long enough to accomodate the whole 2 year floodplain. This will help maintain existing stream dynamics.
2. All other bridges should span as much of the floodplain as necessary to maintain existing stream dynamics. Bridges should not cause any constriction that will result in stream scouring, bank erosion or any other impact to fish habitats.
3. Design adequate sized culverts to maintain proper flows and fish passage. Culverts should follow the design specifications set forth by the Alaska Department of Natural Resources, Office of Habitat Management and Permitting. Properly operating culverts will allow fish passage and use of important seasonal habitats.
4. Eliminate the use of non-fish passage culverts. All culverts should accommodate fish passage.

Please note that under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond in writing within 30 days to NMFS recommendations. If the Corps does not make a decision within 30 days of receiving NMFS Conservation Recommendations, the Corps should

provide NMFS with a letter to that effect, and indicate when a full response will be provided. Larry Peltz is the NMFS contact for this project, and can be reached at (907) 271-1332.

Sincerely,

James W. Balsiger
Administrator, Alaska Region

cc: Francis Mann - USFWS Anchorage
Jeff Davis - ADNR Palmer
Robin Willis - ADF&G Anchorage